

ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

MEETING MINUTES – October 19, 2020

PUBLIC HEARING

Present: Larry Shipman, Chairman
Russ Smith, Vice Chairman
William Reichenbach, Regular Member
Tom Carroll, Alternate
Mark Reeves, Regular Member
Jeff Lovelace, Alternate
Robert Day, Seated Alternate

Also Present: Joe Budrow, Zoning Enforcement Official. Christopher Smith, Esq., RuthAnn Paulin, Chuck Atwood, Peter Glyman and others.

CALL TO ORDER: Larry Shipman, Chairman, called the public hearing to order at 7:00 p.m. on the Zoom Platform. Seated for the public hearings were regular members Larry Shipman, Russ Smith, William Reichenbach, Tom Carroll, Mark Reeves, Jeff Lovelace and Robert Day III.

Application No. 20-6 – Essex Zoning Commission - A Petition for a Text Amendment to Section 20 (Definitions) of the Zoning Regulations to add a number of definitions. (Hearing to be closed at the discretion of the Commission)

Mr. Budrow noted the Correspondence from Gateway and Planning Commissions was received. He presented their recommendations, and they were discussed. Zoning - Lot coverage definition modification of text discussed. Gateway Commission- Required a “Vegetated Buffer” text added.

Jeff Lovelace commented regarding labeling 20-B. under developed area. Discussion of Gateways definition of a “three-dimensional envelope”.

Jeff Lovelace question on setbacks for driveway. – question on the 12% grade on driveway. Noted 12% is what is currently in our regulations.

MOTION made by Russ Smith to close **Application No. 20-6** – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 20 (Definitions) of the Zoning Regulations to add a number of definitions. Robert Day seconded Motion **All in Favor, Motion Carried 5-0**

Application No. 20-7 – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 121 (Zoning Permits) of the Zoning Regulations. (Hearing to be closed at the discretion of the Commission)

Discussion on (121-A) opened by Joseph Budrow. New text added to update 121A on New construction (regarding signage and fencing and their exceptions). Noting that not all signs need permits. Zoning permit timelines also discussed and text for (121-G) set for Zoning permits to last for 2 yrs. Extension timelines were proposed at 4 yrs. from issuance and in the event an extension is required, they can be extended beyond 6 yrs., There was discussion of the need for surveys and notification of neighbors. It was noted that provision is already in the text. (121H)

Mark Reeves discussed economic concerns impeding someone from starting a permitted project thereby making building on those lots in the future more difficult. Robert Day discussed reapplication of permits.

MOTION made by Russ Smith to close **Application No. 20-7** – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 121 (Zoning Permits) of the Zoning Regulations. Mark Reeves seconded Motion. **All in Favor, Motion Carried 5-0**

Application No. 20-8 – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 140 (Zoning Board of Appeals) of the Zoning Regulations. (Hearing to be closed at the discretion of the Commission)

Mr Budrow noted that Gateway and Planning have no issues with the text change in Section (140-J) regarding the (Zoning Board of Appeals). The text change is requested regarding advisory comments. Change in text proposed by Mr. Shipman to make the language clearer by adding the term “non-binding”. Jeff Lovelace also felt the text addition was a good idea.

MOTION made by Mark Reeves to close **Application No. 20-8** – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 140 (Zoning Board of Appeals) of the Zoning Regulations. Robert Day Seconded Motion. **All in Favor, Motion Carried 5-0**

Application No. 20-9 – Essex Zoning Commission - A Petition for a Text Amendment to discuss properties in different districts. (Hearing to be closed at the discretion of the Commission)

The Planning Commission did not recommend any change to text examples. Zoning has not voted on this one but Mr Budrow believes that there will not be an issue. Text change “of the sum” removed from the proposed text. Mr. Budrow noted he spoke with Mr Royston had the idea to remove the “shall be the average...” out of text as they are already listed in the setback charts (70 B) also as noted (70 D) to refer to (70B). Those charts and cross references will make it clear that you cannot game the system by buying a stub of unbuildable land and use it to acquire a more favorable setback for the larger portion.

Mr. Day discussed the language and Mr. Shipman and Mr. Carroll asked for a distinction in (70D.1) Mr. Reichenbach provided an example language suggestion to clarify the uses permitted on that portion of the lot/ parcel located in either the Essex Village District or Village Residential District. Mr. Carroll Noted that the usage language has to be very specific. Mr. Shipman wanted to see the clarification, and if the actual impact can be seen on the maps.

Mr. Reichenbach noted he does not like the suggested changes. Does not believe it is necessary and believes that the two districts should remain distinct. His concern is cluttering.

Mr. Budrow presented the map with the properties that are in two districts highlighted. It was an extremely limited amount of properties. Only 4 properties out of the 12 highlighted are actually effected by the setbacks.

Mr. Shipman asked for any other questions. The history of the application was discussed.

Mr. Budrow read into the record, two letters in opposition of the proposal from Terry O’Mally of 7 Parker Lane and Mr. Atwood, 30 Main Street.

Comments opened by Mr. Shipman.

Mr. Rickenbaugh noted that the applicant had asked for more than just one apartment and that ZBA had denied 3 Structures on 20 Main Street. Ruth Ann Paulin noted that their neighbors didn’t like the way the cars looked and the Port Torchiere was a covering they were asking for attached to the garage/ Mother in law apartment structure to hide the cars.

Mr. Shipman noted that we are discussing a text amendment only, not the application by the ZBA.

Mr. Lovelace had questions on 26 Main Street regarding the building coverage on the lot, and what the increase in ground cover would be (if the text amendment is granted),and noted that it could be going to 7,000 square feet of building coverage. His concern is overdevelopment. Mr Lovelace feels this is a can of worms and that the zoning commission should withdrawal their application. Seconded by Mr. Rickenbaugh.

Ruthann Paulin...spoke that there are three properties this will have an impact on and that we should not deter people who have large families from moving into downtown.

Mr. Day noted that he feels that the split zone lots are a problem, but he does not believe we can do this. Mark Reeves also noted his dissent on the matter that it could be a problem and that we cannot move forward.

Attorney Smith –(for 26 Main Street lot). He noted we have regulations that are 50 years old and he feels what is being proposed is target to this area and will not affect the whole. It is to provide relief (40 L.2) by special permit. His concern is that it becomes a circular situation, and the problem is unique to the downtown area. He suggested inserting the language that there be a 60 ft frontage on the lots in the Downtown Village and requested we approve the text amendments.

Chuck Atwood- public comment... noted that it does not just affect the properties requesting the variance, but it affects all of the adjoining properties and he feels it would be negative. He noted his home would be detrimentally impacted by a larger home right by him.

Mr. Shipman summarized the issue and asked where the commission would like to go with this. He would prefer to vote on it rather than withdraw it. He asks the Commission for a motion. Mr.Carrol asked if we want to continue with it all Mr. Reeves noted that change is not always good and he feels there is no upside to it for the community.

MOTION made by Russ Smith to continue for one week for an up or down vote **Application No. 20-9 – Essex Zoning Commission** - A Petition for a Text Amendment to discuss properties in different districts. Larry Shipman Seconded Motion. **Motion Denied 2-3.**

MOTION to Close Public Hearing and move to Regular Meeting on **Application No. 20-9 – Essex Zoning Commission** - A Petition for a Text Amendment to discuss properties in different districts by Larry Shipman, William Reichenbach, seconded motion. **All in Favor, Motion Carried 5-0**

REGULAR MEETING

- 1. CALL TO ORDER**
- 2. APPROVAL OF THE AGENDA**

Changes/modifications. Late arriving Application:

Application No. 20-11 – **Jamie Bickelhaupt**. A Petition for a Amendment to add a new food based business to the 31-33 Main Street Centerbrook Store front.

Jamie Bickelhaupt. Applicant is present.

MOTION by Larry Shipman to amend agenda to accept **Application No. 20-11** – **Jamie Bickelhaupt**. A Petition for an Amendment to add a new food-based business to the 31-33 Main Street (Centerbrook) Store front. Robert Day seconded Motion. Application to be scheduled for Public Hearing at next month’s meeting, **All in Favor, Motion Carried 5-0**

- 3. RECEIPT OF NEW APPLICATIONS**
No new applications.

- 4. NEW BUSINESS**

Application No. 20-6 – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 20 (Definitions) of the Zoning Regulations to add a number of definitions. (Hearing to be opened at the discretion of the Commission) Discussion and vote.

MOTION by Mark Reeves to approve **Application No. 20-6** – **Essex Zoning Commission** - A Petition for a Text Amendment to Section 20 (Definitions) of the Zoning Regulations to

add a number of definitions. Robert Day seconded motion. **All in Favor, Motion Carried 5-0**

Application No. 20-7 – Essex Zoning Commission - A Petition for a Text Amendment to Section 121 (Zoning Permits) of the Zoning Regulations. (Hearing to be opened at the discretion of the Commission) Discussion and vote

MOTION by Robert Day to approve as amended **Application No. 20-7** – Essex Zoning Commission - A Petition for a Text Amendment to Section 121 (Zoning Permits) of the Zoning Regulations. Mark Reeves seconded. **All in Favor, Motion Carried 5-0**

Application No. 20-8 – Essex Zoning Commission - A Petition for a Text Amendment to Section 140 (Zoning Board of Appeals) of the Zoning Regulations. (Hearing to be opened at the discretion of the Commission) Discussion and vote.

MOTION to approve as amended by Robert Day **Application No. 20-8** – Essex Zoning Commission - A Petition for a Text Amendment to Section 140 (Zoning Board of Appeals) of the Zoning Regulations. Mark Reeves seconded. **All in Favor, Motion Carried 5-0**

Application No. 20-9 – Essex Zoning Commission - A Petition for a Text Amendment to discuss properties in different districts. (Hearing to be opened at the discretion of the Commission) Motion discussion in detail to vote as is or to withdraw.

MOTION by Mark Reeves to Deny without Prejudice. **Application No. 20-9** – Essex Zoning Commission - A Petition for a Text Amendment to discuss properties in different districts. William Reichenbach, seconded motion. **Motion to Deny Passes. 3-2.** (3 for deny: Reeves / Reichenbach/ Carroll)(2 against deny: Shipman / Smith)

5. OLD BUSINESS

None

6. **VISITORS AND GUESTS**

None

7. **REPORT FROM LEGAL COUNSEL and ZONING ENFORCEMENT OFFICER**

Mr Budrow discussed the following current and upcoming items :
Accessory dwelling units and Mid Marine fencing issue.

Town meeting next month on November 16, 2020, there will be a vote put out by the town.
regarding the blending of the Planning and Zoning Commissions into one.

Issue at The Access Road near The Pettipaug Yacht Club (At the end of Great Meadows Road):
There is a property that was purchased by the Bombaci family. A non- intrusive activity has
taken place their for loading and unloading a barge at high tide Previously in the 1960's. They
called Mr. Budrow for a pier zoning question. The pier would be on the water for a platform
that is a dock in a residential zone. It is a commercial permit. It is in a residential zone. It will
be heard by the Harbor Commission. Zoning has questions about the use of the platform as a
valid non -conformity.

8. **OTHER BUSINESS**

Memorandum of decision RE: Application 20-4

MOTION by Tom Carrol to authorize, Joseph Budrow to initial **Memorandum of Decision on**
Application 20-4. Larry Shipman Seconded. **All in Favor, Motion Carried 5-0.**

9. **APPROVAL OF MINUTES**

MOTION made by William Rickenbaugh to approve the minutes from the last meeting
(September 21, 2020). Robert Day seconded Motion. **All in Favor, Motion Carried 5-0**

10. **CORRESPONDENCE AND PAYMENT OF BILLS**

Legal Invoice #36030- Dave Royston for Zoning: \$795.50. FOI requests- noted re: harbor.

MOTION made by Larry Shipman to **approve payment of Legal Invoice #36030.**

Robert Day Seconded Motion. **All in Favor, Motion Carried 5-0**

11. ADJOURNMENT

- Next scheduled regular meeting is **Monday, November 24, 2020 at 7:00 pm**

MOTION to Adjourn, made by Larry Shipman at 9:30 pm . William Rickenbaugh Seconded Motion. **All in Favor, Motion Carried 5-0**

Sharon Marie
Zoning Board Clerk